



TOWN OF LAUDERDALE-BY-THE-SEA

AGENDA ITEM REQUEST FORM

Bud Bentley

Town Manager's Office

Interim Assistant Town Manager

Commission Meeting Dates	Last date to turn in to Town Clerk's Office	Commission Meeting Dates	Last date to turn in to Town Clerk's Office	Commission Meeting Dates	Last date to turn in to Town Clerk's Office
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/> Oct 26, 2010	Oct 15 (5:00 p.m.)
<input type="checkbox"/>		<input checked="" type="checkbox"/> Sept 14, 2010	Sept 3 (5:00 p.m.)	<input type="checkbox"/> Nov 9, 2010	Oct 29 (5:00p.m.)
<input type="checkbox"/>		<input type="checkbox"/> Sep 27, 2010	Sept 17 (5:00 p.m.)	<input type="checkbox"/> Nov 23, 2010	Nov 12 (5:00p.m.)
<input type="checkbox"/>		<input type="checkbox"/> Oct 12, 2010	Oct 1 (5:00p.m.)	<input type="checkbox"/> Dec 14, 2010	Dec 3 (5:00p.m.)

- NATURE OF AGENDA ITEM**
- | | | |
|--|---|---------------------------------------|
| <input type="checkbox"/> Presentation | <input type="checkbox"/> Ordinance | <input type="checkbox"/> Old Business |
| <input type="checkbox"/> Reports | <input type="checkbox"/> Resolution | <input type="checkbox"/> New Business |
| <input checked="" type="checkbox"/> Consent Agenda | <input type="checkbox"/> Quasi Judicial | <input type="checkbox"/> Other |

SUBJECT: Legal Action to effect the transfer of the Wings' parking lot to the Town of Lauderdale-By-The-Sea.

EXPLANATION: The Wings Beachwear project was approved by the Commission on September 11, 2007. The Development Order (Exhibit 1) provides on page 7 in Conditions 5, 6 and 7 that the parking lot north of the alley would be conveyed to the Town under the stated terms, which include the property owner receiving, at no cost to them, ten annual parking permits.

The General Warranty Deed (Exhibit 2) was prepared, executed and placed in escrow pending completion of the project and the removal of encumbrances on the parking lot. On April 12, 2010, the Town Attorney advised the property owner that the Town was ready to accept the transfer of the parking lot. The property owner refused to release the escrowed General Warranty Deed, and stated that the document was incorrect as the owner had been promised ten dedicated parking spaces in the Wings' parking lot.

The Town Attorney has reviewed the record very closely and concludes the record is clear that the Town Commission agreed to ten parking permits that could be used in the Wings' parking lot or the adjacent AIA parking lot.

- The minutes (Exhibit 3) from the September 11, 2007 Commission meeting state on page 20 (page 25 of sequential page numbering): Mayor Parker advised "... that part of the agreement would allow Wings an additional ten permits that could be used at any other metered spaces in that lot or the adjacent lot." The fee for these ten permits would be waived.
- The Development Order (Exhibit 1), Conditions 5, 6 and 7. Condition states "The Town further agrees to issue ten (10) parking permits and waiving of the annual permit parking fees."
- The General Warranty Deed (Exhibit 2). The Town's responsibilities are outlined on page 16 and more specifically item 4.(d), which provides "The Town shall provide, at no cost to Developer, ten (10) annual residential parking permits to be used in the Parking Lot. The parking permits shall be used and assigned by the Developer in its sole discretion to residents living in the residential units."

As noted above in Item 3, the General Warranty Deed (Exhibit 2) states residential permits will be provided. As the Commission is aware, resident permits are limited to a maximum of three hours free parking at a town meter. We understand that the resident parking permit referred to in the General Warranty Deed is actually what we currently refer to as a hardship permit which, in this case, must allow for unlimited and overnight parking.

As a point of information, the attached plan (Exhibit 4) shows the improvements we will make to the lot so it may be used for public parking. When the utilization justifies the expense, this lot and the AIA lot will be combined, which improve the traffic circulation pattern of the AIA lot and eliminate the AIA access to the Wings lot.

STAFF RECOMMENDATION: Authorize the Town Attorney to take the necessary and appropriate action to effectuate the transfer of the parking lot according to the terms of the Development Order (Exhibit 1) and the General Warranty Deed (Exhibit 2).

BOARD/COMMITTEE RECOMMENDATION: N/A

FISCAL IMPACT AND APPROPRIATION OF FUNDS: Cost of Town Attorney time.

Amount: Acct No.

Town Attorney review required

Yes No

Town Manager's Initials: CA

Attachments: Exhibit 1: Development Order
Exhibit 2: General Warranty Deed
Exhibit 3: September 17, 2007 minutes
Exhibit 4: Parking Lot Improvement Plan

File: Document51

DEVELOPMENT ORDER OF THE TOWN COMMISSION OF THE
TOWN OF LAUDERDALE BY THE SEA, FLORIDA

PROJECT NAME & ADDRESS: Wings Beachwest 4405 North Ocean Boulevard, Lauderdale By-The-Sea, FL 33308

APPLICANT'S AGENT: S. H. Brandt and Associates

APPROVAL NO. 10744664
DATE OF ORDER: 10/10/2017
PROJECT NO. 10744664
PROJECT NAME: WINGS BEACHWEST
PROJECT ADDRESS: 4405 NORTH OCEAN BOULEVARD
PROJECT CITY: LAUDERDALE BY THE SEA
PROJECT STATE: FL
PROJECT ZIP: 33308

APPLICANT'S ADDRESS: 22 E. Oakland Park Boulevard

DATE OF HEARING/RATIFICATION BEFORE TOWN COMMISSION: September 11, 2017

TYPE OF RELIEF SOUGHT: Establishment of parking as outlined in the site plan approval in the Development Order.

LOCATION OF PROPERTY: 4405 North Ocean Boulevard, Lauderdale By-The-Sea, FL 33308

DRAWING(S): SEE EXHIBIT "B" ATTACHED HERETO

THIS MATTER came before the Town Commission of the Town of Lauderdale-By-The-Sea, Florida appearing on the Consent Agenda on the date above. The Town Commission hereby adopts the findings and recommendation of the Planning and Development Board, which Board found as follows:

OR

X THIS MATTER came on to be heard before the Town Commission of the Town of Lauderdale-By-The-Sea, Florida on the date of hearing stated above. The Town Commission having considered the relief sought by the applicant and heard testimony from the applicant, members of Town administrative staff and the public finds as follows:

1. Application for the relief sought was made by the Applicant in a manner consistent with the requirements of the Town's Land Development Regulations.

2. The Applicant
 X HAS
 HAS NOT

established by substantial competent evidence a basis for the relief requested.

3. The conditions for development requested by the Applicant, administrative staff, or suggested by the public and supported by substantial competent evidence are as set forth on Exhibit "C" with notation "included".

4. The Applicant's application for relief is hereby
 X GRANTED subject to the conditions referenced in paragraph 3 hereof
 DENIED

5. This Order shall take effect immediately upon issuance by the Town Clerk.

6. All further development on the property shall be made in accordance with the terms and conditions of this order.

7. Other _____

DATE: October 10, 2017 [Signature] [Signature]

Exhibit 1



B & B LAND SURVEYORS, INC.

11441 N.W. 59th Street
 Greater Wynnton Station 32230
 Phone (214) 436-1425
 Telex 481444 BUBB I

LEGAL DESCRIPTION:

SECTION 22, T11N, R10E, S12E, DEKALB COUNTY, MISSISSIPPI

PROPERTY ADDRESS:

10000 N.W. 59th Street
 Greater Wynnton Station

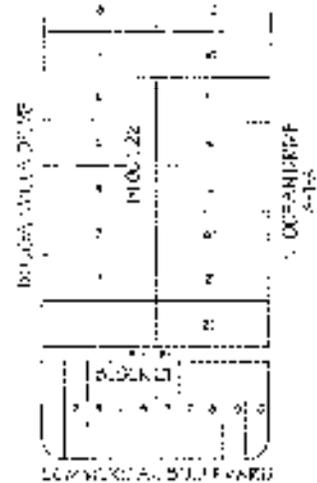
CERTIFIED TO:

- 1. PROPERTY OWNER
- 2. COUNTY CLERK
- 3. COUNTY RECORDS

REMARKS:

THIS SURVEY WAS MADE IN ACCORDANCE WITH THE MISSISSIPPI SURVEYING ACT OF 1968 AND THE MISSISSIPPI SURVEYING BOARD'S REGULATIONS. THE SURVEY WAS MADE BY THE SURVEYOR'S FIELD NOTES AND THE SURVEYOR'S FIELD BOOKS. THE SURVEYOR HAS REVIEWED THE FIELD NOTES AND THE SURVEYOR'S FIELD BOOKS AND HAS FOUND THEM TO BE CORRECT AND ACCURATE. THE SURVEYOR HAS ALSO REVIEWED THE PLAT AND HAS FOUND IT TO BE CORRECT AND ACCURATE. THE SURVEYOR HAS THEREFORE CERTIFIED THIS PLAT TO BE TRUE AND CORRECT.

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LOCATION SKETCH
 100'

REMARKS:

- 1. 100.00' x 100.00'
- 2. 50.00' x 100.00'
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- 100. 100.00' x 100.00'



ADDITIONAL NOTES:

1. THIS SURVEY WAS MADE IN ACCORDANCE WITH THE MISSISSIPPI SURVEYING ACT OF 1968 AND THE MISSISSIPPI SURVEYING BOARD'S REGULATIONS.

2. THE SURVEYOR HAS REVIEWED THE FIELD NOTES AND THE SURVEYOR'S FIELD BOOKS AND HAS FOUND THEM TO BE CORRECT AND ACCURATE.

3. THE SURVEYOR HAS ALSO REVIEWED THE PLAT AND HAS FOUND IT TO BE CORRECT AND ACCURATE.

4. THE SURVEYOR HAS THEREFORE CERTIFIED THIS PLAT TO BE TRUE AND CORRECT.

DATE: 10/15/2024
 TIME: 10:00 AM
 PLACE: 10000 N.W. 59th Street, Greater Wynnton Station, Mississippi

BY: *Gary L. Edgum*
 GARY L. EDGUM
 LICENSE NO. 12345
 EXPIRES 12/31/2024



Wings Beachwear
Site Plan Approval
Development Order

Owner/Agent Information

S.H. Brandt and Associates
Name
22 E. Oakland Park Boulevard
Street Address
Fort Lauderdale, FL 33334
City State Zip Code
(954) 554-0117 / (954) 561-2511
Phone / FAX

Applicant/Agent

Owner
Commercial AIA, LLC
Name
C.E. 417 Street, 4th Floor
Street Address
New York, NY 10617
City State Zip Code
(212) 512-2992 / (212) 481-8718
Phone

Project Location

Street Address: 4405 North Ocean Boulevard
Lauderdale-By-The-Sea, FL 33308
Legal Description: Lots 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and Lot 22, 23, 24, 25, LAUDERDALE-BY-THE-SEA,
according to the Plat Incess, Book 6, Page 2, of the Public Records of Broward
County, Florida
Parcel Numbers: 094515012050 and 094515012050

Existing Site Characteristics

Commercial & Medium High Residential RM (Lots 7-10, 11, 21 & 22) & RM-25 (Lot 22, 11x 22)
Future Land Use Category Zoning District
Retail, Apartments and Parking
Existing Uses on Site
17,116 sq ft (0.39 Acres w/all lots)
Acreage

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Project Description:

Commercial () Office () Residential () Hotel/Motel ()
Other () List Uses:

Commercial

Gross Square Feet: 6,892 sf Retail Space (1st Floor)

Parking Spaces Provided: (see Development Order text)

Residential

Number of Units: 6 (5 Apartments on 2nd Floor and 1 Apartment on the 3rd Floor)

Bedrooms: n/a Square Feet: n/a

Parking Spaces Provided: (see Development Order text)

Type of Units: Fee Simple () Condominium () Townhouse () Rental Apartment ()

Density: 15.4 u/a/c (with all lots)

Overview

The site comprises of two (2) lots. The lot located at the northeast corner of the intersection of State Road 11A and Commercial Boulevard is zoned D-1. The lot (parking lot) to the north of the existing building, across a 15 foot alley, is zoned RM-25. The site contains the former Mack's Groves retail store which has been closed. The Applicant initially proposed to remodel the building to allow both retail and restaurant uses.

The site presently contains an existing 3 story, 15,064 square foot building that has retail and apartment uses. The 1st floor of the existing building has 7,201 square feet of retail space that was formerly used for the Mack's Groves retail store. The existing 2nd floor has 5 apartments and the existing 3rd floor has 1 apartment. The existing 1st floor also contains a tea house.

The Applicant proposed redevelopment of the retail store (1st floor) and initially proposed adding restaurant uses to the 2nd and 3rd floors. The total proposed restaurant customer service area for the 2nd and 3rd floors was 6,412 square feet however, the Town Commission did not support an Applicant submitted Parking Variance at the September 11, 2007 Public Hearing, and the Applicant volunteered to eliminate the proposed restaurant use and retain the 5 existing apartments.

The existing site has 9 on-site backout parking spaces on SRA1A and 15 parking spaces in a separate lot across the 15 foot alley. The Applicant has redesigned the site to remove all of the existing backout parking spaces on SRA1A. With the removal of the backout parking spaces, the Applicant will be expanding the existing 6 foot sidewalk to an 8 foot sidewalk along with including a 14 foot wide landscape retaining area that contains pedestrian seating areas.

The Applicant has agreed to either deed or lease the site's existing parking lot to the Town for the Town's use. The Town owns a parking lot to the north of this parking lot that can be designed to be used in combination with this parking lot. The combination of this parking lot with the Town's parking lot will enable the Town to integrate both parking lots and create a larger Town parking lot. The combination of both of these lots will provide an additional revenue base to the Town. In addition, the increased surface area from the combination of these parking lots could enable the Town in the future to build a parking garage on top of the combined lots. Per the Code, the existing building is vested for 15 parking spaces (12 spaces for the existing retail and 3 spaces for the existing apartments).

Consistency with the Comprehensive Plan and Zoning Code

The Town's Future Land Use Plan has designated the building portion of this site with a C (Commercial) designation and the parking lot portion of the site with a MH1 (Medium High Residential)

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designation. The proposed project is consistent with the Town's Comprehensive Plan and Future Land Use Plan.

As noted previously, the existing building site is zoned B-1 (Business) and the existing parking lot is zoned RM-25 (Multiple Dwellings, 25 units per acre). The proposed project is consistent with the Town's Zoning Code.

Project Review

Date Submitted: March 28, 2007

Application Sufficiency: April 2, 2007

Town Staff Review

Date: June 2007 and August 9, 2007

Action Recommended: Approval () Approval With Conditions (X) Denial () Table ()

Planning and Zoning Board Review

Date: June 20, 2007 and July 19, 2007

Action Recommended: Approval () Approval With Conditions (X) Denial () Table ()

Board of Adjustment

Date: July 17, 2007

Final Action Taken: Approval () Approval With Conditions () Denial (X) Table ()

Town Commission Review

Date: September 11, 2007

Final Action Taken: Approval () Approval With Conditions (X) Denial () Table ()

Findings

The Town Commission considered the Site Plan Package, Town Staff reports, Planning and Zoning Board recommendation, Board of Adjustment recommendation and testimony at the Town Commission meeting of September 11, 2007. Based on the submission and presented testimony, the Town Commission finds the Site Plan Package dated July 11, 2007 for Wing Benevise consistent with the requirements of the B-1 Zoning District subject to the following Standard and Additional Conditions:

Standard Conditions

1. This approval is based on the Site Plan Package prepared by NH Blain and Assoc sites dated received July 11, 2007 containing 14 sheets, reduced 8 1/2 x 11 percent of drawings (11 sheets) and 1 color palette sheet.
2. If the Town Commission approves the plan subject to conditions, the Applicant shall have 15 days from the date the Town Commission approved the site plan to submit a corrected site plan for a compliance review. The compliance review shall be conducted by the Town Manager, Planning and when appropriate, by Town Attorney. The Town shall have

3. no building permit until the Town Manager certifies that the corrected site plan is in compliance with the conditions of approval imposed by the Town Commission.
3. Site plan approval remains in effect for a period of one (1) year following Town Commission approval, unless the Town Commission grants extensions. The Town will issue no building permits or occupational licenses for uses or structures proposed on a site plan if a site plan has expired.
4. This Development Order shall not be in effect until recorded in the Public Records of Broward County by the Applicant, at his/her sole cost and expense, with the original provided to the Town.

Additional Conditions

5. The Applicant shall dedicate the site's existing parking lot (i.e., Lot 22, Block 22) to the Town and convey to the Town any residual interest it may have in the alleyway, subject to dedication and reversionary interest. In a form approved by the Town Attorney.
6. Consistent with the parking lot dedication in #5 above, the Town will grant the Applicant access to the Alleyway and agree to an easement allowing the proposed dumpster on the dedicated lot consistent with the approved Site Plan.
7. Consistent with the parking lot dedication in #5 above, the site is credited with 32 parking spaces for the retail use and 11 parking spaces for the residential use. The Town further agrees to issue ten (10) parking permits and the waiving of the annual permit parking fees. The Applicant is to address the Town Engineer's comments of April 11, 2007.
8. The Applicant is to address the Fire Marshal comments dated May 25, 2007.
9. The Applicant shall obtain an Engineering Permit from the Town for all work within the public right-of-way or dedicated utility easement.
10. The Applicant shall revise the site plan and landscape plan to include colored or stamped asphalt or concrete in the alleyway to the north of the building. The alleyway shall be constructed with colored or stamped asphalt or concrete.
11. The Applicant shall provide a two (2) foot easement for road widening and utilities on SR A1A to be consistent with the Broward County Trafficways Plan and the Town's Comprehensive Plan.
12. Any proposed awnings extending over the sidewalk must be approved by the Town Commission, along with an Indemnification Agreement providing for removal, and proof of insurance in the amount of one million dollars (\$1,000,000) with the Town named as an additional insured party.
13. All existing signs shall be removed from the site.


 Frank Ralston
 Development Services Director

C:\Town\cases and Setting\John Schlegel\Desktop\1007\p001\100-10-6-07.rtf

Customer Information	Transaction Information	Payment Summary
(443) LAUDERDALE-BY-THE-SEA DEV SVCS ZONING CODE COMP. 4501 OCEAN DRIVE LAUDERDALE-BY-THE-SEA, FL 33108-3611	Date Received: 10/11/2007 Source Code: Over the Counter Q Code: Over the Counter Receipt Code: Broward Trans Type: Recording Agent Ref Num	Total Fees: \$91.00 Total Payment: \$91.00

1 Payments
DEFERRED 101.00

1 Recorded Items
JCRF: On: 10/11/2007 2:06:45 PM From LAUDERDALE-BY-THE-SEA COUNTY, SH BRINDY & ASSOCIATES Recording @ Int-SEC ADD-SS 51.00 Indexing @ 1st 4 Names From App. Fee \$40.00

0 Search Items

1 Miscellaneous Items
E.L. (AGENT TRANSMITTAL)

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Prepared by and Robert M.
Page A. Logan, Esquire
Incorporated, Robert Page & Adams, LLP
P.O. Box 1363
Clearwater, Florida 33757-1363
Telephone: 727-461-1818

GENERAL WARRANTY DEED

THIS INDENTURE, is made on February 22, 2012 between Crowderman AIA, LLC, a Florida limited liability company, whose address is 206 Broadway, 3rd Floor, New York, New York 10038 ("Grantor"), and Town of Cauderlake By The Sea, a municipal corporation whose address is 4501 Ocean Drive, Cauderlake By The Sea, Florida 33408 ("Grantee").

WITNESSETH:

Grantor, for and in consideration of One Dollar (\$1.00) to Grantee in hand paid, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained and sold to Grantee, and Grantee's successors and assigns forever the following described land, situated in Broward County, Florida:

See Exhibit "A" attached hereto and made a part hereof.

TOGETHER with all the tenements, hereditaments and appurtenances, with every privilege, right, title, interest and estate, reversion, remainder and easement thereto belonging or in anywise appertaining (all of the foregoing together with the Exhibit "A" land are hereinafter collectively referred to as the "Property").

TO HAVE AND TO HOLD the same to the Grantee forever.

Grantor does covenant with Grantee that Grantor is lawfully seized of the Property, that the Property is free of all encumbrances except as shown on Exhibit "B" attached hereto, and made a part hereof, which are not intended to be recomposed hereto and that Grantor has good right and lawful authority to sell the Property.

Grantor does hereby fully warrant and defend the same against the lawful claims of all persons whatsoever.

The Property is conveyed subject to the Covenants, Conditions and Restrictions as is defined in Exhibit "C" attached hereto.

The tax parcel number for the abovescribed property is 19318 01 22500.

In addition the Grantor grants to the Grantee, or their any representatives or warranty, whatever right, title or interest the Grantor may have in a fifteen (15) foot alleyway lying between the Property and the benefited Property set forth and described on Exhibit "D", which grant shall nevertheless reserve to the Grantor, the Grantor's successors and assigns, the right to use such alleyway for vehicular and pedestrian traffic including the Benefiting Property garbage removal and mail delivery vehicles, and when alleyway shall remain open and unimpeded at all times, and when at any time the alleyway be vacated, the Grantor, Grantor's successors and assigns, shall retain,

Note to All Interests: Consideration for this conveyance is Less Than \$100.

nevertheless, the right of use of such alleyway, in perpetuity for such vehicular and pedestrian traffic for the Benefited Property, including the Benefiting Property garbage removal and retail delivery vehicles.

This conveyance is given pursuant to a Development Order of the Town Commission of Landerside-By-The-Sea approved October 10, 2002 and is not subject to any entity group taxes in accordance with Section 123-4.014 (3), as no consideration was given for the conveyance.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand and seal the day and year first above written.

Signed, sealed and delivered
in the presence of:

COMMERCIAL AIA, LLC,
a Florida limited liability company

[Signature]
Print name: Erin Williams

By: [Signature]
Print Name: Scott L. Smith
Title: Manager

[Signature]
Print name: [Signature]

STATE OF New York)

COUNTY OF Westchester)

The foregoing instrument was acknowledged before me this 22 day of February, 2002, by [Signature] as Manager of Commercial AIA, LLC, a Florida limited liability company on behalf of the company. [He] [She] is personally known to me, or [] has produced a driver's license to [] (certification).

[Signature]
Notary Public
Print name: [Signature]

My commission expires on November 3, 2007

1475614 v1 Commercial AIA Deed Town of Landerside

LINDA KRASKER
NOTARY PUBLIC, STATE OF NEW YORK
BUENOS AIRES, NY
QUALIFIED IN NASSAU COUNTY
COMMISSION EXPIRES: 11/03/07

EXHIBIT "A"

Legal Description of Property

Lot 22 Block 62, WATFORDALE BY THE SEA, according to plat thereof recorded in Plat Book 6 Page 2 of the Public Records of Duval County, Florida.

EXHIBIT "D"

Exceptions

1. Matters as shown upon the Plat of Lauderdale-By-The-Sea, as recorded in Plat Book 6, page 2 of the Public Records of Broward County, Florida.
2. Dedication Agreement entered into between the Grantor and the Grantee herein and dated February 26, 2008, attached hereto and the additional covenants, conditions and restrictions as a part of Exhibit "E".
3. The terms, conditions and restrictions of the Development Order of the Town Commission of Lauderdale-By-The-Sea approved October 16, 2007.

EXHIBIT "C"

Covenants, Conditions and Restrictions

As provided in the Development Order of the Town Commission of Lauderdale-By-The-Sea, Florida approved October 10, 2007, the Property herein conveyed is subject to the following Covenants, Conditions and Restrictions:

1. The Property is to be used for a public garage to be owned and operated by the Town of Lauderdale-By-The-Sea, Florida.
2. The Property shall be subject to an easement in perpetuity in favor of the property set forth on Exhibit "D" ("Benefited Property"), and as an appurtenance to the Benefited Property which easement grants, declares and establishes the use of ten (10) parking spaces on the Property at no cost or charge to the Benefited Property of the Grantor, its successors and assigns and their tenants, invitees, guests and users.
3. The Property shall be subject to an easement in perpetuity in favor of the of the Benefited Property and as an appurtenance to the Benefited Property which easement grants, declares and establishes the right of use of the Property by the Benefitor, its successors and assigns to place the trash containers and dumpsters serving the Benefited Property on the Property at a location set forth on, described the site plan attached as Exhibit "E" ("Site Plan").

These Covenants, Conditions and Restrictions shall be a burden on the Property, shall run with the Property and shall be a benefit to and an appurtenance of the Benefited Property set forth and described in Exhibit "D".

EXHIBIT "D"

Legal Description of Benefitted Property

Lots 1, 3, 5 and 10, Block 21, LAUDERDALE BY THE SEA, according to the plat thereof recorded in Plat Book 5, Page 2 of the Public Records of Broward County, Florida.

EXHIBIT "B"
DEDICATION AGREEMENT

This Agreement ("Agreement") is made and entered into as of the 15th of February 2008 by and between TOWN OF LAUDERDALE BY THE SEA, FLORIDA (the "Town"), a municipal corporation duly organized and existing under the laws of the State of Florida, and COMMERCIAL AIA, LLC, a Florida limited liability corporation (the "Developer")

RECITALS.

WHEREAS, the Developer is the owner of certain property in the Town located at 4405 North Ocean Blvd., Lauderdale by the Sea, Florida (the "Property") condition of upon the dedication of the Parking Lot referenced in this Agreement; and

WHEREAS, the Developer obtained conditional site plan approval for the development of Wings Beachwear retail store with six (6) residential units on the Property; and

WHEREAS, Developer also owns an RM-35 zoned lot to the immediate north of the Property known as Lot 22 Block 23 plot book E, Page 23, Broward County Public Records (the "Lot"); and

WHEREAS, as a condition to site plan approval the Developer has freely voluntarily agreed to dedicate real property to the Town that is presently utilized as a parking lot; and

WHEREAS, the Town has proposed the construction of a Town parking lot (the "Parking Lot") for the general public's use adjacent to the Developer's property. In order to complete the proposed development of said Town public parking lot the Town has requested a dedication of land by the Developer to construct a portion of the Town parking lot on a portion of the Property. On September 11, 2007, the Town Commission approved the Developer's site plan attached hereto as Exhibit "A" for the development of the Developer's project on the Property and in consideration of said approval, the Developer has agreed to execute this Agreement.

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Recitations. The foregoing recitations are true and correct and are incorporated herein by reference.
2. Responsibilities of Developer

- (a) Upon issuance and receipt of a final certificate of occupancy for the Developer's building as depicted on the site plan approved by public hearing and attached as Exhibit A the Developer shall dedicate the Lot by transferring its interest in the Lot to the Town by Warranty Deed, or other instrument acceptable to the Town.
 - (b) The Town acknowledges that it accepts the Lot in its "as is" condition. The Developer shall not be responsible at time of conveyance or anytime thereafter in any manner for the condition of the Lot.
 - (c) The dedication shall also include a Reversionary Interest in the Alleyway conveyed by Developer to the Town.
3. Exclusive to the Town. The Town acknowledges this Agreement is exclusive to the Town and may not be assigned or sold or transferred to any other entity or person.
4. Responsibilities of Town. In consideration of the dedication of the Lot from Developer, Town agrees to the following conditions:
- (a) The Town shall bear all costs associated with the construction, development, and maintenance of the proposed Parking Lot.
 - (b) The Town shall be responsible for the recording of any document for the conveyance of the Lot to the Town.
 - (c) The Town will use its best efforts to avoid any delays with the Developer's request for permit applications approved on the approved site plan. The Town shall use its best efforts to avoid any detrimental impact on the operation of the retail location once opened for business during the construction of the Town Parking Lot.
 - (d) The Town shall provide, at no cost to Developer, ten (10) annual residential parking permits to be used in the Parking Lot. The parking permits shall be used and assigned by the Developer in its sole discretion to residents living in the residential units.
 - (e) The Town shall ensure the pedestrian entrance to the Parking Lot to remain on the southwest corner of said Parking Lot.
 - (f) The existing alleyway shall remain open at all time and remain fully accessible to the Developer including the Developer's garbage removal contractor and the retail delivery service trucks.
 - (g) During the demolition and construction period relative to the Wings Boutique development of Property, construction dumpsters & merchandise storage containers may be placed on the Parking Lot until such time as final building permit is closed for the construction on the Property.
 - (h) Pursuant to the approved site plan for the Property, the trash removal dumpsters serving exclusively the Developer's Property will be

permanently located on the Lot or Future Parking Lot as depicted on Exhibit A.

(c) This Agreement shall run with the land.

5. The Developer hereby agrees and consents to the dedication of the Lot and agrees to release and waive any right, claim, and cause of action it may now have or have in the future against the Town as a result of the voluntary dedication.
6. Effective Date. This Agreement shall be come effective upon its execution by the parties.
7. Omissions. The parties hereto recognize and agree that the failure of this Agreement to address a particular permit, condition, term, or restriction shall not relieve the Developer of the necessity of complying with the law, statute, code, ordinance, rule or regulation or governing said permitting requirements, conditions, term or restriction notwithstanding any such omission.
8. Notices. Any notices required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given if delivered by hand, sent by recognized overnight courier (such as Federal Express) or mailed by certified or registered mail, return receipt requested, in a postage prepared envelope, and address as follows:

If to Town at: Town Manager
Town of Lauderdale by the Sea
4621 Ocean Drive
Lauderdale By The Sea, FL 33308

With a copy to: Jim Cheraf, Esquire
Town Attorney
Coren, Cheraf, Doody & Izrol, P.A.
2099 E Commercial Blvd, Suite 230
Fort Lauderdale, Florida 33328

If to the Developer at: Nancy Giberto
Commercial A/A, LLC
8 East 41st Street, 6th Floor
New York, NY 10017

With a copy to: Michael J. Marcano, Esquire
Marpow, Radell & Ferrandina, P.A.
200 S. Biscayne Boulevard
Suite 850
Miami, Florida 33121

Notices personally delivered or sent by overnight carrier shall be deemed given on the date of delivery and notices mailed in accordance with the foregoing shall be deemed given ten (10) days after deposit in U.S. mails. The terms of this section survive the termination of this Agreement.

9. Construction

(a) This Agreement shall be construed and governed in accordance with the laws of the State of Florida. All of the parties to this Agreement have participated fully in the negotiation and preparation hereof, and accordingly, this Agreement shall not be more strictly construed against any one of the parties hereto.

(b) In construing this Agreement, the use of any gender shall include every other and all genders, and captions and section and paragraph headings shall be disregarded.

(c) All of the exhibits attached to this Agreement are incorporated in and made a part of, this Agreement.

10. Severability. In the event any term or provision of this Agreement be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or construed as deleted as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.

11. Venue. Any and all actions to enforce the provisions of this Agreement shall be brought in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County.

12. Assignment. All the terms and provisions of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties and their respective successors and assigns, exclusive to the Town.

13. Entire Agreement. This Agreement, together with the documents referenced herein, constitute the entire agreement and understanding among the parties with respect to the subject matter herein, and there are no other agreements, representations or warranties which may be set forth herein. This Agreement may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change would be sought and subject to the requirements for the amendment of development agreements in the Act.

14. Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, riot, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, excluding the financial inability of such party to perform and excluding delays resulting from appeals or proceedings commenced by the Developer (any such

causes or events to be referred to herein as a "Force Majeure"), shall excuse the performance by such party for a period equal to any such period of prevention, delay or stoppage.

Signed, sealed, executed and acknowledged this 26 day of Feb., 2008.

WITNESS: COMMERCIAL AIA, LLC

[Signature] BY: [Signature]
Print Name: Walter Gibson Print Name: Shawn Lewis
Title: Member

[Signature]
Print Name: [Signature] JJK

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 26 day of February, 2008 by Shawn Lewis, as a Member of Commercial AIA, LLC, a Florida limited liability company, on behalf of said limited liability company, who is personally known to me or has produced a Florida Driver's License as identification.

Linda Krasner
NOTARY PUBLIC

REGISTRATION AGREEMENT Llc

LINDA KRASNER
NOTARY PUBLIC, STATE OF NEW YORK
NO. 0109470115
QUALIFIED BY BOARD OF NOTARY
COMMISSION EXPIRES DECEMBER 3, 2011

TOWN OF LAUDERDALE BY THE SEA,
FLORIDA
BY ITS TOWN COUNCIL.

Attest:

TOWN CLERK

By: *Jodi White*
Town Clerk

By: *Roseann Masit*
Town Mayor

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 5th day of March 2008 by Roseann Masit, Mayor of the Town of Lauderdale By the Sea, a Florida municipal corporation, on behalf of said municipal corporation, who is personally known to me or has produced a Florida Driver's License as identification.

Linda Vedsted
NOTARY PUBLIC



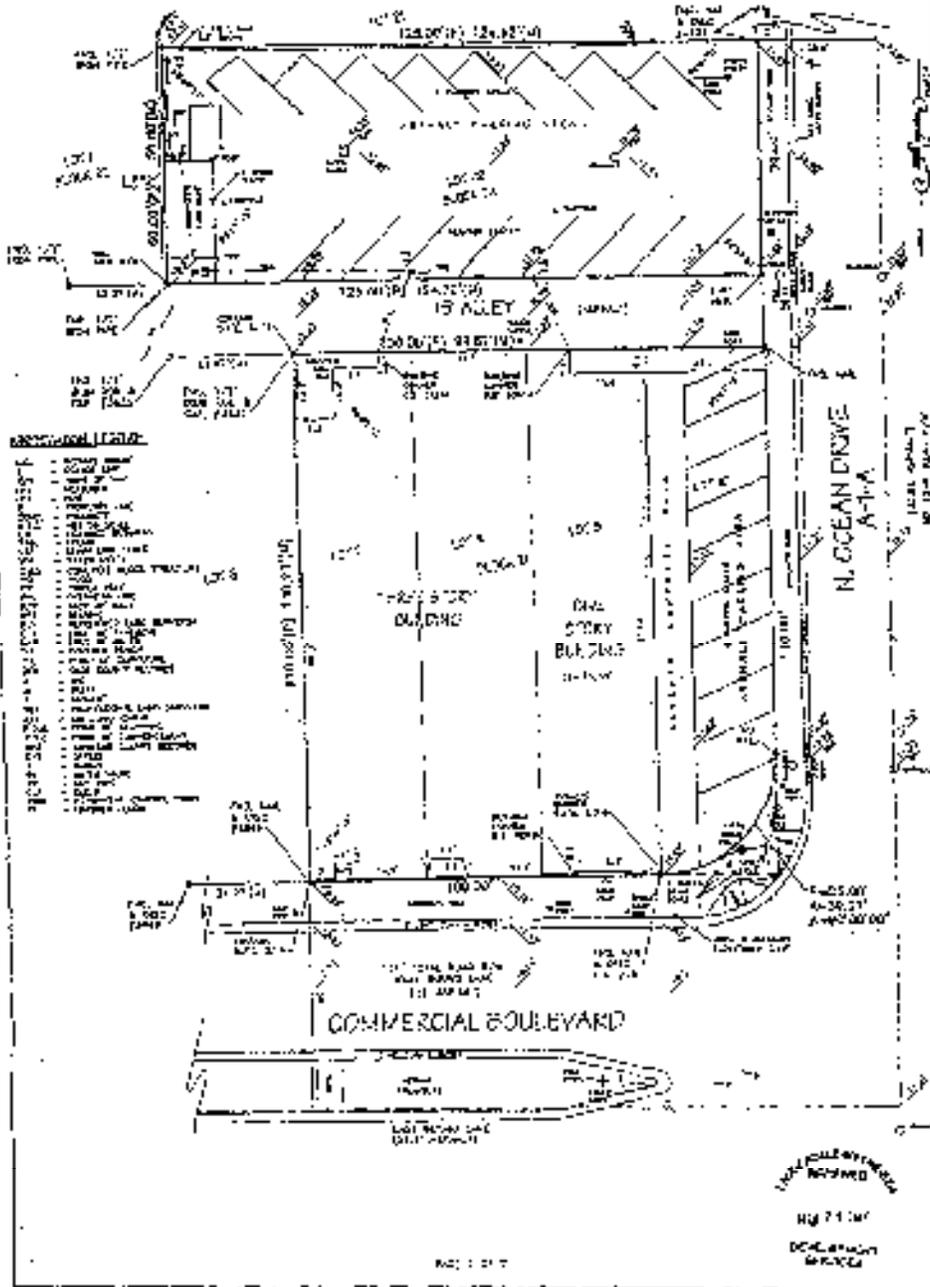
Linda Vedsted
Commission #00135444
Expires 12/31/2010
www.flnotary.com

EXHIBIT "F"



B & B LAND SURVEYORS, INC.

11543 S.W. 58th Street
Miami, Fla. 33149
Phone (305) 875-2211
Telex 511011 B&B



**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
REGULAR MEETING
MINUTES**

Town Commission Meeting Room
4501 Ocean Drive
Tuesday, September 11, 2007
6:00 P.M.

1. CALL TO ORDER, MAYOR OLIVER PARKER

Mayor Parker called the meeting to order at 7:00 p.m. Vice Mayor Yanni, Commissioner McIntee, Commissioner Silverstone, Mayor Pro Tom Clark were present. Also present were Town Attorney James Cherof and Town Clerk Juro White.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3A. TOWN ATTORNEY REQUEST FOR CLOSED DOOR SESSION to Discuss KAY BAYMAN and NELLIE BAYMAN vs. TOWN OF LAUDERDALE-BY-THE-SEA, CIRCUIT COURT CASE NO. 07-15080 CASE (13) (Town Attorney James Cherof)

Mayor Parker opened the closed door session at 6:05 pm and announced the Regular Commission meeting would start at 7:00 pm with the Pledge of Allegiance.

Attorney Cherof requested a closed door session to discuss KAY BAYMAN and NELLIE BAYMAN vs. TOWN OF LAUDERDALE-BY-THE SEA, CIRCUIT COURT CASE NO. 07-15080 CASE (13). Mayor Parker granted the request.

Mayor Parker opened the Regular Commission meeting at 6:40 pm.

3B. CHANGE ORDER TO INCLUDE SIDEWALKS ON WASHINGTONIA
(Commissioner Silverstone)

Commissioner Silverstone motioned to put a sidewalk on the north side of Washingtonia Avenue, between Seagrape Drive and Polyzaris Street. Mayor Pro Tom Clark seconded the motion.

Discussion followed to include the color of the sidewalk should be the same color coral as the sidewalk on Seagrape Drive.

Mayor moved to put sidewalks on both sides of Washingtonia Avenue. Motion died for lack of second.

In a roll call vote, the motion carried 5-0.

3A. TOWN ATTORNEY REQUEST FOR CLOSED DOOR SESSION to Discuss KAY BAYMAN and NELLIE BAYMAN vs. TOWN OF LAUDERDALE-BY-THE-SEA, CIRCUIT COURT CASE NO. 07-15080 CASE (13) (Town Attorney James Cherof)

This item was the first item of business before the Regular Commission meeting.

12. **RESOLUTION**

- a. **Resolution No. 2007-14:** A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICIALS TO EXECUTE A GRANT APPLICATION FOR FUNDS AVAILABLE THROUGH THE COMMUNITY DEVELOPMENT BLOCK GRANTS PROGRAM THROUGH BROWARD COUNTY FOR THE FISCAL YEAR 2007/2008 PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE. (Town Manager Colon)

This item was moved out of order and discussed earlier.

13. **OLD BUSINESS**

- a. **Public Hearing** - The Planning and Zoning Board tabled the proposed Wings site plan (fka: Mack's Groves) located at 4405 N. Ocean Drive to their meeting of July 18, 2007 based on their concerns with the architecture of the proposed building (Walter Keller, Town Planner) (Tabled from July 24, 2007 meeting)
- b. **Public Hearing** - The Board of Adjustment is scheduled to review a proposed parking variance for the Wings Beachware project located at 4405 N. Ocean Drive at their July 17, 2007 meeting. There is an accompanying zoning petition request that was originally scheduled for the Planning and Zoning Board on June 20, 2007 in which the Board tabled the accompanying zoning petition to their meeting of July 23, 2007 (Walter Keller, Town Planner) (Tabled from July 24, 2007 meeting)

Attorney Chorof swore in those wishing to speak.

Commissioner McIntee requested the meeting be adjourned for the evening after the two public hearings were complete. There were no objections.

Attorney Chorof announced that both public hearings could be heard together and voted on individually.

Planner Keller said the Variance was recommended for denial

Mayor Parker announced that Old Business Items 13c through 13h and New Business Items 14a through 14f were tabled until Friday September 14, 2007 following the special meeting.

Commissioner McIntee questioned Albert Levy, owner, as to other restaurant chains he had been in contact with prior to this meeting. Mr. Levy said he had not been in contact with any other restaurant chains.

Mayor Parker talked about the conditions to the site plan and referred to page 7 of the memorandum, specifically item 6. He said he would prefer it to read that the applicant shall

dedicate the site's existing parking lot to the Town on a form approved by the Town Attorney.

Mr. Levy wanted to know if there would be a mechanism worked into an agreement to use the fair market value for that land to court towards the spaces. Mayor Parker said credit for the space would stay with the land.

Planner Keller advised that Code allowed a variance based upon the parking space submitted. He added that staff was concerned that they would take up too much of the available parking spaces in the area. Planner Keller indicated that the Board of Adjustment was not supportive of the variance itself because in peak season conditions did not have a much parking facilities as was suggested. He added that staff was concerned that granting the full restaurant space at this time was premature. Planner Keller said Wings was asking for approval for 6500 square feet of restaurant.

Discussion followed regarding whether Wings was grand-fathered and whether the credit for the number of spaces was 32 or 43.

Mr. Levy said if it was not the desire of the Commission to allow more space for the size of the restaurant, he was looking for then he was willing to stick with the residential that is there already and just bring in Wings and willing to build with residential on top.

Attorney Cherof asked Mr. Levy if the property was owned by Wings or under contract subject to Commission approval, and whether Wings could walk away from the transaction. Mr. Levy replied in the negative. He also asked if the merchandise being sold would be visible from the street in the evenings. Mr. Levy said the window display would not be constructed by the tinted windows. Attorney Cherof asked if outside storage and merchandise for sale was planned for this project. Mr. Levy replied that depended on what the Town Code allowed. With respect to the alley way, Attorney Cherof whether it would be a point of delivery for products. Mr. Levy said yes.

Mayor Parker said Wings was grand-fathered for 32 spaces and 11 spaces for residential. He asked Mr. Levy if he was willing to build with residential on top and Mr. Levy said he was.

Mayor Parker made a motion to grant the site plan with the additional condition that the applicant shall dedicate the site's existing parking lot to the Town and convey to the Town any residual interest it may have in the alley way, subject to dedication and reversionary interest, on a form approved by the Town Attorney.

Mayor Parker advised that the Town owned the alleyway but would also have the reversionary interest in it. Mr. Levy questioned the "reversionary interest" and Mayor Parker said that if the Town vacated the alley way as a street the Town would still own it.

Mr. Levy said as long as Wings had access to the alley way and a dumpster he would agree.

Mayor Parker advised Mr. Levy that in exchange for the dedication Wings would be grandfathered in with 43 parking spaces so long as the use is not changed.

Mayor Parker asked Mr. Levy if he understood and accepted the conditions and Mr. Levy said he did.

Mr. Levy requested ten additional Hardship Parking Permits. Brief discussion followed regarding the process, followed by disclosure of information from the Town Attorneys office. Attorney Cherof advised that Mr. Levy only received information from one of their associates regarding the understanding of Town Code.

Mayor Parker made a motion to approve the site plan with the conditions set forth. Vice Mayor Yanni seconded the motion.

Attorney Cherof said there needed to be disclosure as to who the Commission spoke with.

Mayor Parker spoke with two of the gentlemen associated with Wings, along with the previous Development Services Director, Jim Bell regarding deeding the parking lot to the Town and the reversionary rights to the alley way, in exchange for credit for the parking spaces and dumpster.

Commissioner McIntee had a brief telephone conversation with Mr. Levy and his father.

Vice Mayor Yanni said he had no discussion with anyone associated with Wings.

Mayor Parker addressed Mr. Levy's request for an additional ten parking permits. He advised that part of the agreement would allow Wings an additional ten permits that could be used at any other metered spaces in that lot or the adjacent lot. Mayor Parker also advised that additionally the annual fee for the parking permits would be waived.

In a roll call vote, the motion carried 5-0.

Attorney Cherof advised that the next step was for Planner Keller to draft the Development Order that incorporated the modified condition that the Commission had discussed and approved. He added that the Development Order would be reviewed by himself and the Town Manager to make sure it conforms to what was agreed upon.

The remaining items were tabled to September 14, 2007 earlier in the meeting.

- ~~c. Discussion and/or action regarding change to El Mar Drive from present configuration to one lane (Commissioner Silverstone - tabled from June 12, 2007 meeting)~~
- ~~d. Discussion and/or action regarding renewing performing arts center contract (Vice Mayor Yanni) (Tabled from July 10, 2007 meeting)~~
- ~~e. Discussion and/or action regarding giving the Performing Arts Center priority with dates at Jarvis Hall (Mayor Parker) (Tabled from July 10, 2007 meeting)~~

Town of Lauderdale-By-The-Sea
 Wings Parking Lot Striping Plan
 Cost Estimate - August 2010

Item #	Item Description	Quantity	Unit	Unit Price	Extended Price
1	Mobilization and Overhead	1	LS	\$300.00	\$300.00
2	Remove Asphalt (Including Lime Rock Base)	20	SY	\$6.00	\$120.00
3	Remove Bolards	3	EA	\$50.00	\$150.00
4	Remove Phone Booth	1	EA	\$250.00	\$250.00
5	Relocate Parking Stops	14	EA	\$50.00	\$700.00
6	Remove Sign Post	1	EA	\$125.00	\$125.00
7	Remove Pipe Stub	1	EA	\$125.00	\$125.00
8	Asphalt Spot Repairs	1	LS	\$1,500.00	\$1,500.00
9	Install Parking Stops	5	EA	\$85.00	\$425.00
10	Seal Coat Parking Lot	545	SY	\$2.00	\$1,090.00
11	Install St. Augustine Sand	20	SY	\$4.50	\$90.00
12	3" White Parking Stripe	330	LF	\$1.50	\$495.00
13	3" White Parking Stripe	65	Lr	\$2.00	\$130.00
14	3" Blue Parking Stripe	50	Lr	\$2.00	\$100.00
15	Pavement Symbol	2	LA	\$150.00	\$300.00
TOTAL					\$6,140.00

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